

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**Determination That the Goodenough Gambusia (*Gambusia Amistadensis*) Is an Endangered Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines that the Goodenough gambusia (*Gambusia amistadensis*) is an Endangered species. This fish has been extirpated from the wild in its native habitat, Goodenough Spring, Val Verde County, Texas, and presently survives in captivity at the University of Texas and Dexter National Fish Hatchery. The disappearance of the wild population of this species was due to destruction of its native habitat by impoundment activities of the U.S. Army Corps of Engineers. The present action will afford this species the protection provided by the Endangered Species Act of 1973, as amended.

**EFFECTIVE DATE:** This rule takes effect on May 30, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Mr. John L. Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703/235-2771.

**SUPPLEMENTARY INFORMATION:****Background**

The Goodenough gambusia was known to occur only in Goodenough Spring, tributary to the Rio Grande River in Val Verde County, Texas. In July of 1968, backwaters of the Corps of Engineers Amistad Reservoir began permanent flooding of the area. Subsequent visits to the area after the reservoir had reached full pool level found the spring under more than seventy feet of silt laden water. A scuba diver examined the Goodenough Spring area but did not detect any clear water issuing from the spring. This species is presently surviving only in captivity at the University of Texas and Dexter National Fish Hatchery in New Mexico.

This species was originally proposed as endangered on August 15, 1978 (FR 43, 36117-36120). Comments received in response to this proposal have been received and are summarized herein. A public hearing was held in Austin, Texas on July 9, 1979 to receive oral statements on several endangered plants and the Goodenough gambusia. No oral statements were made concerning the Goodenough gambusia.

**Summary of Comments and Recommendations**

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the Federal Register prior to adding any species to the List of Endangered and Threatened Wildlife Plants.

All comments received during the period of August 15, 1978 to December 31, 1979 were considered in formulating this final rule.

A total of three comments were received on the Goodenough gambusia proposal. They were from the State of Texas, the Lone Star Chapter of the Sierra Club and a zoologist from the University of Texas. All three letters supported the proposed Endangered status for Goodenough gambusia. As previously mentioned, no oral statements were made pertaining to the Goodenough gambusia at the public hearing in Austin, Texas on July 9, 1979.

**Conclusion**

After a thorough review and consideration of all the information available, the Director has determined that the Goodenough gambusia (*Gambusia amistadensis*) is Endangered due to the factor described in Section 4(a) of the Act, as amplified below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Goodenough gambusia was known to occur only in Goodenough Spring, tributary to the Rio Grande River in Val Verde County, Texas. In July of 1968, backwaters of the Corps of Engineers Amistad Reservoir began permanent flooding of the area. Subsequent visits to the area after the reservoir had reached full pool level found the spring under more than 70 feet of silt laden water. A scuba diver examined the Goodenough Spring area but did not detect any clear water issuing from the spring. This species is presently surviving only in captivity at the University of Texas and Dexter National Fish Hatchery.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued survival.* Not applicable.

**Effect of the Rulemaking**

Section 7(a) of the Act, as amended, provides:

The Secretary shall review other programs administered by him and utilize such

programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for interagency cooperation were published on January 4, 1978, in the *Federal Register* (43 FR 870-876) and codified at 50 CFR 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. The present rule requires Federal agencies to satisfy these statutory and regulatory obligations with respect to *Gambusia amistadensis*. Endangered species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species.

With respect to this fish, all pertinent prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 would apply. These prohibitions, in general, make it illegal for any person subject to the jurisdiction of the United States to import or export Endangered species;

deliver, receive, carry, transport, or ship them in interstate commerce in the course of a commercial activity; or to sell or offer them for sale in interstate or foreign commerce.

Section 10 of the Act and 50 CFR 17.22 and 17.23 provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

#### Effect Internationally

In addition to the protection provided by the Act, the Service will review this species to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention or whether it should be considered under other appropriate international agreements.

#### National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C)

of the National Environmental Policy Act of 1969.

#### Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be Endangered or Threatened] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

The Goodenough gambusia (*Gambusia amistadensis*) presently survives only in captive populations in a laboratory at the University of Texas and the Dexter National Fish Hatchery. Since it has been extirpated from its natural range, it is not prudent at this time to designate an area of Critical Habitat for this species. Critical Habitat may be determined at a future date if an effort is made to re-introduce the species.

The primary author of this proposed rulemaking is Dr. James D. Williams, Office of Endangered Species (703/235-1975).

#### Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. Section 17.11 is amended by adding, in alphabetical order, the following fish to the list of animals:

Goodenough gambusia (*Gambusia amistadensis*)

#### § 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Gambusia, Goodenough.	<i>Gambusia amistadensis</i> ....	Texas .....	Entire .....	E .....	.....	NA .....	NA .....

Dated: April 23, 1980.

Robert S. Cook,  
Acting Director, Fish and Wildlife Service.

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